HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 203 of 2004 (SS)

Dinesh Chandra Pantola son of Sri Heera
Ballabh Pantola, Sinchpal in Jamrani Bandh
Nirman Khand-I, Damua Dhunga, Kathgodam
District Nainital ..... Petitioners

Versus

1. State of Uttaranchal
2. Chief Engineer Irrigation Department State of Uttaranchal
3. Chief Engineer, North, Irrigation Department, Haldwani, District Nainital
4. Superintending Engineer, Jumrani Bandh Nirman Mandal, Kathgodam
5. State of U.P.
6. Engineer-in-Chief, Irrigation Department U.P. Lucknow

..... Respondents

Sri Pankaj Miglani, Advocate for the petitioner
Standing counsel for the respondents.

Dated: 24.2.2006

Hon'ble Rajesh Tandon J.

Heard Sri Pankaj Miglani, counsel for the petitioner and the Standing counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to give effect of regularization of the petitioner since his initial appointment i.e. since 1.6.1979 instead of 1.1.1996.

Briefly stated the petitioner was appointed on 1.6.1979 as a work charge employee on the post of Work Supervisor and on

the very same day the petitioner had joined his services. The petitioner has submitted that the Government issued G.O. on 7.2.1981 that the persons who have completed three years service in work charge establishment shall be considered for regularisation on the availability of the post in future. Vide memorandum dated 18.10.1984 it was circulated that no fresh appointments shall be made in the regular establishment or in work charge establishment but if the services of a work charge employee is regularised there will be no bar. Again vide memorandum dated 9.1.1987 it was circulated that the persons who have completed three years of continuous work on the work charge establishment will be given preference in their appointment to the regular establishment. The petitioner was regularized on 1.1.11996 on the post of Sinchpal and since then the petitioner is working on the said post.

The grievance of the petitioner is that he is entitled to get benefit of his past service on work charge establishment but the respondents have not considered his past 17 years service for fixation of pay and other service benefits.

The counsel for the petitioner has relied upon the judgment of Apex court in N.K. Sharma vs. Presiding Officer, Labour Court, Shimla and others (1996) 3 UPLBEC 2114, where the Apex Court has held that the employee whose service was regularised from work-charge can claim counting of service period for fixation of seniority and further promotion but he cannot get benefit of higher pay scale.

The petitioner has also relied upon the judgment of this Court in Writ Petition No. 6285 of 2001 (SS) decided on 24.9.2003 where the service of the petitioner in work-charge

establishment were counted for qualifying service for the payment of pension.

In view of above, petitioner is given liberty to file a representation before the respondents within a week after the receipt of the certified copy of this order. The respondents are directed to decide the representation within two weeks thereafter by a reasoned order.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

Dated: 24.2.2006 **Rajesh Tandon J.**

*Dhyani